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UNCLAS SECTION 01 OF 13 GUATEMALA 000197

C O R R E C T E D C O P Y (TAGS CORRECTION)

SENSITIVE
SIPDIS

DEPT FOR G/TIP AND G ACBLANK
DEPT ALSO FOR INL, DRL, PRM, WHA/CEN, AND WHA/PPC
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E.O. 12958: N/A
TAGS: [KTIP](#) [ELAB](#) [KCRM](#) [KFRD](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREF](#) [SMIG](#) [ASEC](#) [GT](#)
SUBJECT: GUATEMALA'S INPUT FOR 2009 TIP REPORT
(APRIL 2008 - FEBRUARY 2009)

REF: A. STATE 5577
 [B](#). 08 STATE 132759
 [C](#). 08 GUATEMALA 1450
 [D](#). 08 GUATEMALA 327

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[1](#). Below is post input (keyed to ref B) on anti-trafficking efforts undertaken by the Guatemalan government between April 2008 and February 2009 in the areas of prevention, protection of and assistance to trafficked victims, and investigation and prosecution of traffickers. While challenges remain, especially in the area of prosecution, the GOG is committed to addressing those challenges and has made progress in combating human trafficking despite limited resources. In view of GOG efforts during the reporting period, in particular its passage of important anti-trafficking reform legislation and increased investigations, Embassy recommends that Guatemala be removed from the Tier 2 Watch List. Such action will not only reinforce ongoing efforts but will encourage the GOG to continue and expand its efforts to vigorously combat trafficking as part of a global effort.

[2](#). Embassy's point of contact on trafficking in persons is Poloff Lucy Chang (FS-02), tel.: (502) 2326-4635, fax (502) 2334-8474. She spent 45 hours in the preparation of this report.

Guatemala's TIP Situation

[A](#). The sources of available credible information on trafficking in persons are NGOs, including organizations implementing USG-funded anti-TIP projects, and limited anecdotal information provided by trafficked victims themselves. The GOG, in collaboration with NGOs, seeks to document human trafficking. As part of its national 10-year plan of strategic action, the government plans to document and analyze the trafficking situation, at both the national and regional levels, and to study its relationship to other societal problems, such as commercial sexual exploitation, labor exploitation, and alien smuggling. The analysis will look at factors such as age, gender, and socio-economic status that contribute to victims' vulnerability. Participating institutions of the Guatemalan Inter-Agency Commission to Combat Trafficking in Persons managed and shared databases on trafficking. The GOG is in the process

of creating a unified database to facilitate follow-up on trafficking cases.

1B. Guatemala continued to be a country of origin, transit, and destination for internationally trafficked victims. Trafficking occurred within the country, particularly in border areas and other outlying areas of weak government control, as well as transnationally across its borders. Due to the clandestine nature of human trafficking, which often camouflaged as other types of licit and illicit activities, and the lack of reporting and tracking mechanism, there were no reliable estimates on the actual extent or magnitude of the problem. Although the National Civilian Police (PNC) provided year-end crime statistics, there were no reliable estimates of trafficking victims, nor reliable information on the origins and destinations of victims, or methods and motives of traffickers. Information provided by NGOs continued to suggest the existence of networks of Qcontinued to suggest the existence of networks of transnational sexual traffickers operating in the region, primarily transporting victims from El Salvador, Honduras, and Nicaragua to Guatemala. Central American women and girls continued to be trafficked and sold in brothels in Mexico, Belize, and the United States. The majority of the victims were young women between 19 and 25 years of age, with the number of underage victims reportedly increasing. Casa Alianza estimated that at least 15,000 minors were sexually exploited in Guatemala. According to UNICEF, 80 percent of these minors were girls. The Social Movement for the Rights of Children, Adolescents, and Youth in Guatemala reported that there were at least 230 brothels that sexually exploited girls. The PNC reported that there were 800 prostitution houses nationwide.

1C. The Comprehensive Health Association (ASI) anti-TIP project coordinator reported that many girls from poor

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indigenous areas in western Guatemala, some as young as 12 or 13 years of age, were working 12-16 hours a day as domestic workers in the capital without overtime pay or other benefits, and in many instances employers were deducting the costs of food and housing from their pay. Most of these young domestic workers, despite the difficulties they faced, did not return to their communities because they had no other options. Ten impoverished young Guatemalan women who allegedly were forced to work as prostitutes in the U.S. reported having sex with up to 30 clients a day. Several were forced to work even when ill. They testified that they were constantly watched by procurers and were beaten and threatened with violence, even witchcraft, to keep them from attempting to escape.

NGO reports confirmed the continuing occurrence of labor exploitation south of the Mexican border where Guatemalan minors were recruited to beg in the streets and to work in the municipal dump. In some cases, these minors were also believed to be victims of sexual exploitation. Labor exploitation of men and women was also documented among agricultural migrant workers in southern Mexico along the Guatemalan border.

1D. Women, children, and migrants continued to be at greater risk of being trafficked than other sectors of the population. In particular, girls and young women from poor families or abusive homes, and those attempting to migrate to the U.S. in search of employment opportunities continued to be the most vulnerable to trafficking. Trafficking was particularly prevalent in villages along the country's border. Under-age migrants who did not cross the border into Mexico often remained in the country and resorted to or were forced into prostitution. Women and children were also transported from El Salvador, Nicaragua, and Honduras by organized rings that forced them into prostitution.

1E. Traffickers ranged from independent business people to

small family businesses to regional organized crime networks.

According to the PNC, traffickers generally operated in small- to medium-sized informal networks, which did not involve organized crime but included Nicaraguans, Salvadorans, and Colombians utilizing authentic but illegally issued Guatemalan identification documents, typically originating from municipal authorities in rural parts of the country. False documents were used to conceal both age and citizenship status of victims. Traffickers often had links to other organized crime, including drug trafficking and alien smuggling.

Traffickers utilized various modes of operation, including use of commercial enterprises, such as bars and brothels. Some bar or brothel owners engaged in trafficking to recruit workers for their businesses, while other traffickers operated independently of other commercial activities. Sometimes victims themselves returned to their villages to recruit new victims. Most victims were lured by promises of travel, study, or work, including offers of employment as waitresses, domestic workers, or factory workers, or were exploited in their desire to migrate to the U.S. in search of work opportunities or reunion with family members. Impoverished young women lured by the promise of legitimate jobs in the U.S. were forced into prostitution under debt bondage after being smuggled into the U.S. A relatively small number of victims may have known they would be working as prostitutes, but nevertheless were enticed by offers of better working conditions. Trafficked victims were not usually kept as slaves; instead, traffickers created conditions of economic, psychological, and often drug dependency. In many cases, victims resisted rescue. There was no reliable information on whether employment, travel, or tourism agencies or marriage brokers were involved in trafficking.

Traffickers reportedly altered their modus operandi after Guatemala passed a restrictive national adoption law, compliant with the Hague Convention on Intercountry Adoption, on December 12, 2007. The law took effect December 31, 2007. Pregnant Guatemalan women were transported to other

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countries, such as Spain, where the women gave birth and where adoptive parents registered the babies as their own. The Public Ministry reported that traffickers utilized various violent and non-violent methods to carry out illegal adoptions, including camouflaging them as legal adoptions.

Government's Anti-TIP Efforts

1A. The government acknowledged that trafficking is a serious problem and continued to focus its efforts to address it. Human trafficking was a priority on the legislative agenda, and government actors publicly acknowledged the need to vigorously address it. The government faced numerous challenges, including lack of resources, systemic corruption, reluctance of victims and witnesses to testify, and a high level of impunity and violence.

1B. Twenty-seven organizations, including 19 government agencies, were involved in anti-trafficking efforts as part of the Inter-Agency Commission to Combat Trafficking in Persons, which was established by government decree in July 2007 under a renewable two-year mandate. Led by the Ministry of Foreign Affairs under the Director of Migration Affairs, the commission coordinates the government's anti-trafficking efforts in accordance with its international commitments and domestic laws. It is comprised of representatives of various Executive agencies, as well as international organizations and local NGOs, and is organized into three sub-commissions focused on prevention, attention to the victim, and the application of justice. The commission meets regularly on a bi-monthly basis, as well as on an ad hoc basis, as necessary. It met three times during the reporting period.

Both the Public Ministry (Attorney General's Office) and the PNC have dedicated anti-TIP units. The Public Ministry's Anti-TIP unit, established in November 2007 within the Special Prosecutor's Office for Organized Crime, raised the profile of trafficking in persons and improved the model of investigation and prosecution of TIP crimes. Formerly housed within the Special Prosecutor's Office for Women, the new unit provided greater visibility and focus to human trafficking during the reporting period. The staff of 12 worked in close collaboration with the PNC and NGOs. According to the unit's chief prosecutor, approximately 80 percent of the unit's current caseload is illegal adoption, which is defined as trafficking in persons under Guatemalan law. Of the 50 current TIP cases he has filed, seven involve trafficking of minors for sexual exploitation. There are no pending cases of adult sexually exploited TIP victims or forced labor victims.

1C. The government's ability to address the problem of trafficking in persons was limited by weak institutional capacity, infiltration of organized crime into government agencies, systemic corruption within the PNC, inadequate funding for police and other government institutions, lack of resources to aid victims, and lack of willing victims and witnesses to prosecute trafficking offenders. Funding for the special anti-TIP units, as for most Guatemalan government agencies, remained inadequate. During the reporting period, Qagencies, remained inadequate. During the reporting period, the Public Ministry's anti-TIP unit had a limited budget, 12 staff, and three vehicles. Funding for its operation depended on the Public Ministry's annual budget, which did not allocate funds specifically for the anti-TIP unit. Government actions continued to depend heavily on technical and financial support from local NGOs and international donors. Government officials and NGOs cited as serious impediments to effective law enforcement the high level of impunity for all crimes and rampant corruption, which often led to leaks of information on impending raids and investigations to criminal targets. They stressed the need for additional resources to train judges and police investigators, provide greater assistance to victims, and strengthen the Public Ministry's inadequate witness protection program.

According to the PNC, no funds were allocated to law enforcement to focus specifically on TIP. Funding for

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anti-TIP efforts was part of the overall PNC budget. Its anti-TIP unit had only five police agents and one vehicle to conduct anti-TIP operations throughout the country, and lacked a surveillance mechanism to properly investigate TIP crimes. Members of civil society noted that judges lacked proper training on TIP issues and working with minors. They also pointed to systemic weaknesses, including institutional corruption, lack of coordination among key law enforcement and justice sector agencies, lack of female police officers, and lack of continuity and institutional knowledge in the PNC due to frequent staff turnover. They noted that the PNC's lack of institutional continuity limited the long-term impact of training efforts. Notwithstanding these numerous challenges, the individuals working in the Public Ministry and PNC special anti-TIP units were generally regarded as competent and dedicated.

1D. The Inter-Agency Commission to Combat Trafficking in Persons, led by the Foreign Ministry, provided an open, collaborative forum for discussion of legislative proposals and projects, and coordination of efforts. It met three times during the reporting period to discuss activities carried out by participating agencies. A year-end summary report of its activities was not available at the time of submission of this report.

Investigation and Prosecution of Traffickers

1A. On February 18, Congress unanimously approved a bill against sexual violence, exploitation, and trafficking in persons. The passage of the bill was the culmination of seven years of effort and numerous drafts. The bill, introduced in Congress in August 2008, provides a comprehensive legal framework, based on the Palermo Protocol, for the prevention of TIP and related crimes, protection of victims, and prosecution of traffickers. It creates a secretariat attached to the Vice President's Office to coordinate GOG efforts to combat sex crimes and trafficking in persons. The secretariat has a budget of Q5 million (approx. USD 641,026) for the initial year of its operation, including funding for compensation to victims of these crimes. The law also establishes a process for repatriation of trafficked victims, and focuses on protection of minors. It penalizes not only traffickers but also those who use the services of trafficked persons and sexually exploited victims, including victims of child pornography. It also increases the penalty for trafficking in persons from 6-12 years to 8-18 years in prison, imposes a fine of Q300,000 - 500,000 (approx. USD 38,462 - 64,103), and modifies several TIP-related provisions in the Penal Code. Wiretapping and undercover operations, permissible under the Law Against Organized Crime, may be used to investigate and prosecute traffickers.

The new Law Against Sexual Violence, Exploitation, and Trafficking in Persons (Law 09-2009) defines the crime of trafficking in persons under new Article 202(3) of the Penal Code. The final text of the approved legislation was not available at the time of submission of this report. Article Qavailable at the time of submission of this report. Article 202(3), in the near-final draft text provided to post on February 25, states (in non-official translation from Spanish):

The crime of trafficking in persons consists of the co-optation, transport, transfer, retention, harboring, or reception of one or more persons for the purpose of exploitation. Whoever commits this crime will be sanctioned with eight to 18 years in prison and a fine of 300,000 to 500,000 quetzales. Consent given by the trafficked victim or by the victim's legal representative will not be considered.

For purposes of the crime of trafficking in persons, exploitation is understood as: prostitution, any other form of sexual exploitation, forced labor or services, any type of labor exploitation, begging, any form of slavery, servitude, sale of persons, extraction and trafficking of organs and human tissues, and recruitment of minors for organized crime groups, illegal adoption, illegal adoption process, pornography, forced pregnancy, or servile or forced

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matrimony.

Article 202(4), Remuneration for Trafficking in Persons, states: Whoever, for oneself or for others, through exploitation activities referred to as the crime of trafficking in persons, provides or promises to another person or to others an economic benefit or any other benefit, will be sanctioned with a prison sentence of six to eight years.

The penalty established in the previous paragraph will increase by two-thirds if the remuneration is for exploitation of persons less than 14 years of age, and will double if the trafficked victim is less than 10 years of age.

Guatemala's existing law against TIP, Article 194 of the Penal Code (enacted in July 1973 and amended in March 2005), prohibits trafficking in persons for both sexual and labor exploitation. It states (in non-official translation from

Spanish):

Whoever, in any way, promotes, induces, facilitates, finances, collaborates, or participates in the co-optation, transport, transfer, harboring, or receipt of one or more persons by means of threat, force or other forms of coercion, fraud, deceit, abuse of power, kidnapping, or a situation of vulnerability or concession or receipt of payments or benefits to obtain the consent of a person who has authority over another, for the purpose of exploitation, prostitution, pornography, or any other form of sexual exploitation, will be sentenced to six to 12 years in prison.

The same sanction applies to whoever, taking advantage of the circumstances outlined in the previous paragraph, subjects another person to begging, forced labor or services, servile matrimony, illegal adoption, slavery or similar practices. Consent given by the trafficked victim or the victim's legal representative if the victim is a minor will not be considered an attenuating circumstance for any of the forms of exploitation described. The penalty will be increased by a third if the victim is a minor, disabled, or elderly. If the victim is a minor, this crime will be considered to have been committed even if none of the means outlined in the first paragraph of this article was used. If the victim suffers physical harm, the penalty will be increased by two-thirds. In the case of the victim's death, the corresponding penalty will be applied.

Other laws used to prosecute TIP cases include prohibitions in the Penal Code against rape, corruption of minors, and procuring or pandering, and prohibitions in the Immigration Law against hiring illegal immigrants.

Article 173 (Rape)
Article 174 (Aggravated Rape)
Article 175 (Qualified Rape)
Article 176 (Rape or Ravishment by Inexperience or Trust)
Article 177 (Rape or Ravishment by Deceit)
Article 178 (Aggravated Rape or Ravishment)
Article 188 (Corruption of Minors)
Article 189 (Aggravated Corruption of Minors)
Article 191 (Procuring or Pandering)
Article 192 (Aggravated Procuring or Pandering)

Article 107 of Immigration Law (Decree 95-98)(Hiring Illegal Immigrants)
Article 108 of Immigration Law (Decree 95-98)(Hiring of Minor Illegal Immigrants)

According to the Chief Prosecutor of the anti-TIP unit, currently there are no non-criminal statutes that provide for civil penalties for trafficking, e.g., civil forfeiture laws or laws against illegal debts. The new legislation establishes a fund for compensation to victims of trafficking and sexual exploitation and a mechanism for civil penalties.

1B. Article 194 of the Penal Code imposes a penalty of six to 12 years in prison for trafficking in persons for sexual or

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labor exploitation, with an automatic increase by one-third if the victim is a minor, elderly person, or disabled person, and by two-thirds if the victim suffers physical harm.

The new Law Against Sexual Violence, Exploitation, and Trafficking in Persons imposes a prison sentence of eight to 18 years and a fine of Q300,000 to Q500,000 (approx. 38,462 - 64,103) for trafficking in persons for sexual or labor exploitation. Sentences are automatically increased by one-third for certain aggravated circumstances, e.g., if the crime was committed by more than two persons, if the victim received death threats or was treated cruelly during the commission of the crime, if the trafficker was the victim's relative or guardian, or public official or professional in

the exercise of his official duties. Sentences are automatically increased by two-thirds if the victim is 14 but less than 18 years of age, and by three-quarters if the victim is 10 but less than 14 years of age, and doubled if the victim is less than 10 years of age.

1C. The penalty for trafficking for labor exploitation is the same as that for sexual exploitation. Article 194 of the Penal Code provides for criminal sanctions against labor recruiters who engage in recruitment of workers using knowingly fraudulent or deceptive offers with the purpose of subjecting workers to trafficking in the destination country.

It also penalizes employers or labor agents who confiscate workers' passports or travel documents for the purpose of trafficking, or who switch contracts without the worker's consent or withhold payment of salary as a means of keeping the worker in a state of service.

1D. The prescribed penalty for rape (Article 173) is six to 12 years in prison (up to 50 years in prison for aggravated circumstances). The prescribed penalty under the new law is eight to 12 years in prison.

1E. During the reporting period, its initial year of operation, the Public Ministry's anti-TIP unit received 131 complaints of TIP, including illegal adoptions. (Note: The existing anti-TIP provision, as well as the new legislation, considers illegal adoption a form of TIP.) According to the Chief Prosecutor, of the 131 complaints, 15 percent involved sexual or labor exploitation. Fifteen individuals were accused and 5 were sentenced. The Chief Prosecutor noted a decrease in the number of complaints of child kidnappings, which he attributed in part to the adoption law passed in December 2007.

The Ministry initiated criminal proceedings against 55 suspected trafficking offenders. In August, the prosecutor's office in Jalapa convicted a defendant on human trafficking charges, obtaining a sentence of six years' imprisonment. The Chief Prosecutor of the anti-TIP unit stated that he handled all of the cases in his unit as TIP cases, but the courts often brought charges under other legal provisions, most commonly the prohibition on corruption of minors or contracting of illegal aliens. He observed that it is very difficult to treat adult prostitutes as TIP victims without the testimonies of the victims. In many cases, TIP crimes are not prosecuted because the victim refuses to testify. Qare not prosecuted because the victim refuses to testify. According to the Chief Prosecutor, 95 percent of cases depend on victim testimony. He anticipates that the new legislation, which does not specify the means of committing the crime of trafficking and, therefore, is less dependent on victim testimony, will result in more prosecutions. In collaboration with other GOG institutions, the Secretariat of Social Welfare is seeking to implement a strategy to raise awareness among the population on the importance of greater participation in reporting crimes to change the culture of impunity.

According to the Public Ministry's anti-TIP unit, the government conducted 12 raids on commercial establishments and rescued approximately 45 sexually exploited victims during the reporting period. According to the Human Rights Ombudsman's Office, Office of the Defense of Children and Youth, three Nicaraguan minors were rescued during the last trimester of 2008. During the reporting period, the PNC

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ordered the closure of three clandestine dens, where minors and other undocumented persons were found.

As of December 2008, the Public Ministry reported receiving 5,985 complaints of sexual crimes, and obtaining 237 convictions of sexual offenders.

1F. The government, in collaboration with civil society,

provided specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking. The Public Ministry worked with ECPAT to train government officials on crimes of sexual commercial exploitation with an emphasis on trafficking of children. ECPAT provided training to more than 320 government officials nationwide, including all employees of the National Tourism Institute, and to an additional 90 government officials, including police and prosecutors, assigned to the departments of Peten, Jutiapa, and Chiquimula.

¶G. The Guatemalan government cooperated with other governments in the investigation and prosecution of trafficking cases. During the reporting period, according to the Public Ministry, there were 20 cooperative international investigations on trafficking. Guatemala requested legal assistance in five cases, while Colombia, El Salvador, and Honduras requested legal assistance from Guatemala in 15 cases.

¶H. The Guatemalan constitution does not prohibit extradition of its own nationals; however, an extradition treaty is required. Guatemala has a bilateral extradition treaty with the United States. That treaty does not specify trafficking in persons among the crimes for which extradition is prescribed. It does, however, list "kidnapping of minors or adults," defined as "the abduction or detention of a person or persons in order to exact money from them or their families, or for any unlawful end." Guatemala also has a multilateral extradition treaty with the governments of other Central American countries, which requires that the crime be punishable by no less than two years' imprisonment in both countries. In practice, the extradition process is lengthy and complicated. During the reporting period, the government did not extradite any alleged traffickers. There are no pending trafficking extraditions.

¶I. There were credible reports that police and immigration service agents were complicit in trafficking or leaking information on imminent raids of brothels and other commercial establishments to criminal targets. An NGO reported that some minor victims of trafficking claimed that immigration officials took bribes from traffickers, gave the victims falsified identification papers, and allowed them to cross borders. There were credible reports that brothel owners allowed police and immigration officials to have sex with minor victims without charge. Another NGO reported that business owners of massage clubs and other establishments that sexually exploited adolescents had good relations with government authorities who warned these businesses of upcoming police raids. There were no details on the extent or magnitude of the problem, but there were indications that some networks involved high-level officials. On August 1, 2008, some networks involved high-level officials. On August 1, 2008, a criminal court ordered the arrest of the sister of Congressman Gudy Rivera (then president of the Congressional Committee on Minors and Children) of the Patriot Party for her alleged involvement in a baby kidnapping. She was charged with trafficking in persons and conspiracy. In May 2008, she was detained during a police raid after police discovered that she was operating a clandestine child care center and adoption business in her home.

¶J. The PNC, through its Office of Professional Responsibility and its Inspector General's Office, focused on identifying and investigating corruption within its ranks and dismissing corrupt officers. During the reporting period, 12 public officials, including private sector lawyers entrusted with public duties, public notaries, and civil registry secretaries, were charged and investigated for involvement in illegal adoptions. None of them have yet been convicted; the cases are ongoing.

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¶K. Prostitution is legal. The legal minimum age for

prostitution is 18. While the Penal Code does not criminalize the activities of prostitutes who are at least 18 years of age, procuring and inducing a person into prostitution are crimes that can result in fines and imprisonment, with heavier penalties if minors are involved. Trafficking in persons for the purpose of prostitution is illegal. The Penal Code criminalizes the activities of brothel owners/operators and procurers. The laws most often applied against brothel owners/operators and procurers are the laws against procuring, corruption of minors, and contracting of illegal aliens. The Penal Code does not criminalize the activities of clients. Under the new law against sexual violence, exploitation, and trafficking in persons, clients will be sanctioned.

According to the Public Ministry, owners of night clubs and brothels have changed their way of doing business, opening formerly private businesses as public corporations ("sociedades anonimas") under names of legal representatives to evade detection and arrest. During the reporting period, the anti-TIP unit opened four cases against legal representatives of such businesses.

1L. During the reporting period, there were no reports of any Guatemalan national deployed abroad as part of a peacekeeping or other similar mission who engaged in or facilitated severe forms of trafficking or who exploited victims of such trafficking.

1M. Child sex tourism was not a widespread problem in Guatemala; however, there were credible reports of a nascent industry in certain areas. UNICEF has been working with the Guatemalan tourism board to raise awareness. It developed a code of conduct with the Guatemalan Tourism Institute and the Guatemalan Chamber of Tourism (INGUAT-CAMTUR) and the Guatemalan Institute for Technical Training (INTECAP) to discourage the use of tourist activities and services, including taxi drivers and tour operators, for sexual exploitation. A local NGO that works on trafficking issues and with trafficked victims is developing an agreement with hotels in Antigua and Guatemala City to place notices, modeled on those in Thailand and the Philippines, prohibiting unaccompanied minors from entering hotel rooms of foreigners without proper authorization. During the reporting period, the government did not prosecute or deport/extradite any foreign pedophiles. One U.S. citizen remained detained on charges of sexual child abuse, pending trial. The Chief Prosecutor of the anti-TIP unit was not aware of any cases of Guatemalan nationals engaging in child sex tourism during the reporting period.

Protection and Assistance to Victims

1A. The government had limited resources to adequately protect victims and witnesses. In most cases, victims preferred not to file legal complaints out of fear of reprisal and/or lack of confidence in the justice system and the witness protection program. The overall impunity rate for homicides was at least 93 percent, according to the International Commission Against Impunity in Guatemala (CICIG), and was worse for other kinds of crime.

1B. The government operated victim care facilities that were accessible to trafficked victims and offered social services, job training, and counseling. The Secretariat of Social Welfare, which is legally mandated to attend to persons under 18 years of age, operated 37 day care centers for children up to 12 years of age, seven 24-hour shelters for trafficked victims, children from dysfunctional or domestically violent families, and abandoned minors under 18 years of age, and two juvenile detention centers. Its shelter in Quetzaltenango housed approximately 30 children per month. In December 2008, Congress approved an increase of Q180 million (approx. USD 23 million) to the Secretariat's annual budget. Most minor victims were referred by the GOG to NGOs, particularly Casa Alianza, for care and protective custody. Casa Alianza/Guatemala, which closed on January 16, 2009 due to a

USD 6.5 million budget cut to its parent organization, estimated that 300 children were referred to them each year. Foreign victims were provided the same access to care as domestic trafficked victims. A shelter run by the General Directorate of Immigration included a dedicated area for attention to adult and foreign trafficked victims.

1C. The government provided trafficked victims with access to legal, medical, and psychological services by referring them to NGOs that were able to provide comprehensive care. The Public Ministry, as state prosecutor, pursued criminal proceedings against traffickers. The Secretariat of Social Welfare provided educational and occupational skills workshops, as well as social services and assistance with legal proceedings. The government did not provide funding to NGOs for services to trafficked victims, but did collaborate closely with NGOs on anti-trafficking efforts through exchange of information, participation in awareness-raising campaigns, drafting of anti-TIP reform legislation, and raids of commercial establishments to rescue trafficked victims.

1D. The Guatemala government did not provide temporary or permanent residency status or other relief from deportation to foreign trafficked victims. It attended to foreign adult victims in an area dedicated to trafficking victims within a shelter run by the General Directorate of Immigration. Adult foreign trafficked victims were referred to their respective consulates in country. Foreign minors were not, as a matter of policy, deported. The Foreign Ministry contacted the respective consulates, and minor victims were referred to the Secretariat of Social Welfare and soon thereafter repatriated to their countries of origin, in accordance with the National Protocol for the Repatriation of Child and Adolescent Victims of Trafficking. Guatemala has repatriation agreements for minor victims of trafficking with El Salvador, Nicaragua, Honduras, Costa Rica, and Panama.

1E. The government, with NGO assistance, provided longer-term shelter and other resources to aid victims in rebuilding their lives. The Secretariat of Social Welfare, through its multi-disciplinary team, administered various social programs throughout the reporting period, including a program for the prevention of domestic violence and a program to reduce social risk among street children, migrants, and victims of sexual exploitation. It also administered government subsidies to families living in poverty, and coordinated an anti-TIP program in Solala, which, according to the Secretariat, has become a magnet for trafficking in persons. During the reporting period, the Secretariat focused on ways to strengthen the institution, expand its coverage to provide services to more people, and decentralize its administrative functions. It conducted a study that profiles the areas with the greatest incidence of domestic violence and a study of the departments with the highest levels of social risk. It established eight regional offices, with funding provided by the central office and with direct participation by regional office directors in municipal-level development councils. Office directors in municipal-level development councils. Its decentralization plan has enabled direct contact between the Secretariat and the poorest municipalities throughout the country.

1F. The government has a referral process to transfer victims detained, arrested, or placed in protective custody by law enforcement authorities to institutions that provide short- or long-term care. The Secretariat of Social Welfare is in the process of installing 16 courts throughout the country, one per department, to expedite cases involving children and adolescents.

1G. There were no reliable estimates of trafficked victims during the reporting period. The Secretariat of Social

Welfare handled 504 child protection cases, including cases of sexually exploited minors. ECPAT/Guatemala attended to 100 trafficked victims, while Casa Alianza/Guatemala assisted 24 sexually exploited minors, and continued to attend to 64 sexually exploited minors from previous years. During the reporting period, Casa Alianza/Guatemala received a total of

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430 cases, including 245 referred by judicial order.

1H. The GOG has a mechanism for identifying victims of trafficking among high-risk populations with whom government officials come in contact. Its Standard Operating Procedures provide instructions on how to process sex crimes, including specific provisions on how to assist TIP victims. The government also developed and implemented a referral process to transfer minor victims who were placed in protective custody by law enforcement authorities to NGOs that provide long-term care. The government has a mechanism for screening for trafficked victims among persons involved in the legal commercial sex trade. In collaboration with civil society, it conducted raids on night clubs and other commercial establishments possibly involved in the sex trade, with the aim of rescuing domestic as well as foreign victims of commercial sexual exploitation, including trafficked victims.

The GOG reported that these efforts contributed to the rescue of approximately 45 trafficked victims.

1I. The government generally respected the rights of trafficked victims. The government did not arrest, detain, fine, or jail trafficked victims. It did not prosecute victims for violations of immigration laws or any other laws.

Foreign undocumented adult trafficked victims were deported to their countries of origin, while minor victims were sent to Casa Alianza or a government-run shelter for attention and care. A shelter in Guatemala City provided temporary housing for undocumented aliens, including victims of trafficking,

A government-run 24-hour call center, staffed by trained professional counselors, provided information on human trafficking to the general public, and psychological support and referral assistance to trafficked victims and other victims. The call center raised public awareness, improved the channels of communication between victims and assistance providers, and focused greater attention on and follow-up of trafficking cases.

1J. The Public Ministry, in collaboration with civil society, continued to encourage victims to assist in the investigation and prosecution of trafficking and provided support, upon request, through its Office of Witness Protection. The government encouraged victims to file legal action against traffickers by instituting a call center through which victims could file complaints and the government could provide follow-up on cases. Victims were able to participate in criminal proceedings against traffickers and to seek redress for damage as third party plaintiffs. However, few trafficked victims filed complaints or assisted in the investigation and prosecution of traffickers. Victims tended to protect the traffickers. In addition, minors, many of whom had either false documents or no documents, were reluctant to admit their under-age status. A few individuals did testify, which led to convictions for corruption of minors and contracting of illegal aliens. There was no information available as to the actual number of victims who assisted in the investigation and prosecution of traffickers during the reporting period. According to the Public Ministry's anti-TIP unit, the witness protection program provided protection to four witnesses, including three TIP victims, during the reporting period.

No one can legally impede victim access to legal redress. Such redress is a right guaranteed by the Constitution and Penal Code. In practice, however, victims' access to legal redress was impeded by institutional corruption, a weak

judicial system, lack of security, fear of reprisal, and lack of specially trained judges and prosecutors. A victim who is a material witness in a court case against a former employer may obtain other employment or leave the country and/or seek refuge as a protected witness pending trial proceedings. The law provides for restitution to the victim as a third party plaintiff. Civil reparations supplement the principal criminal proceeding that seeks to determine the culpability of the alleged trafficker.

1K. The government, in collaboration with civil society, provided specialized training for government officials in

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identifying trafficked victims and in providing assistance to victims, including the special needs of trafficked children. Participating government agencies of the Inter-Agency Commission to Combat Trafficking in Persons provided ongoing training as part of its commitments under the National Plan of Strategic Action, and national, bilateral, and multilateral agreements. The training aimed to sensitize officials responsible for anti-trafficking efforts to ensure prompt and proper attention to victims and to prevent re-victimization.

The government also provided training on protections and assistance to Guatemalan consuls accredited to the U.S., Mexico, and neighboring Central American countries, as well as to foreign consuls accredited to Guatemala. The training focused on the proper application of the National Protocol for the Repatriation of Child and Adolescent Trafficked Victims, as well as the implementation of the Public Policy Against Trafficking in Persons and Comprehensive Protection to Victims. The government encouraged Guatemalan embassies and consulates to maintain close relationships with NGOs and international organizations that serve trafficked victims.

The GOG, based on internal information provided by its consulates, is in the process of determining the total number of trafficked victims assisted by Guatemalan embassies and consulates abroad. Guatemalan consulates had primary responsibility for the repatriation and accompaniment process for Guatemalan trafficked victims abroad. Consular authorities issued special travel documents for repatriation of victims, followed up on the health conditions of victims, and facilitated coordination among the institutions responsible for repatriation of victims to ensure a process that fully respects the victims' human rights. The Foreign Ministry's central office was responsible for notifying the appropriate institutions (the Solicitor General's Office, the General Directorate of Immigration, and the Secretariat of Social Welfare) on accompaniment requirements for the victim.

1L. The government, through its General Directorate of Immigration and Solicitor General's Office, received Guatemalan trafficked victims at ports of entry and provided accompaniment during the repatriation process. Authorities assessed victims' state of health, rendering medical assistance as required. While the government did not provide financial support, victims could file civil claims for compensation for damage and harm. The government provided assistance to repatriated trafficked nationals in shelters operated by the General Directorate of Immigration, the Secretariat of Social Welfare, and NGOs. The Secretariat of Social Welfare received repatriated minors and reintegrated them with their families upon their return to Guatemala. The Secretariat also ran a shelter in Quetzaltenango for nationals repatriated from Mexico. Minors sent to that shelter were reunited with their families within a few days of arrival.

1M. Various international organizations and local NGOs worked with trafficked victims. Casa Alianza/Guatemala, House of Q with trafficked victims. Casa Alianza/Guatemala, House of the Migrant, House of the Woman, Our Godchildren, and the

Survivors Foundation provided direct shelter, and comprehensive attention, including medical, legal, psychological, and social support, to trafficked victims. ILO/IPEC, UNICEF, Catholic Relief Services, International Organization for Migration, International Justice Mission, Comprehensive Health Association (ASI), and ECPAT, among others, provided advocacy and consultation on anti-TIP efforts and administered preventive programs. Catholic Relief Services, through sub-grantees Human Mobility Pastorate and the Central American Development Institute (INCEDES), implemented a USG-funded project to increase public awareness of trafficking. USG-funded ECPAT continued working with the House of the Migrant in the Mexican border area and expanded its anti-trafficking efforts to the areas bordering Honduras and El Salvador, working in conjunction with the justice sector authorities to combat commercial sexual exploitation. Local authorities collaborated closely with these NGOs. During the reporting period, Casa Alianza

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assisted 24 sexually exploited minors, and continued to attend to 64 sexually exploited minors from previous years, providing formal education and occupational training. ECPAT attended to 100 trafficked victims.

Prevention

1A. The government, in collaboration with civil society, continued its national public awareness campaign. The primary objective of the campaign was preventing trafficking by educating and alerting the public, particularly in high-incident areas and at land, air, and water border crossing points, on the dangers of trafficking networks operating within families and communities, and increasing the visibility of the traditionally clandestine crime. The campaign, targeting current and potential trafficked victims, included phone numbers of organizations that victims could call for help. Through radio and television broadcasts, pamphlets, posters, banners, and billboards, the campaign was effective in reaching populations that had little knowledge of the crime. A USG-funded NGO initiated plans to expand the campaign, through radio spots in Spanish and three Mayan languages in the border areas and dissemination of pamphlets, to reach at least 5,000 persons next year. Informational materials were disseminated to Guatemalan embassies and consulates accredited abroad, as well as to foreign diplomatic missions accredited to Guatemala. Catholic Relief Services, through sub-grantee Human Mobility Pastorate, organized public awareness fora on TIP in the critical departments of Peten, Chiquimula, San Marcos, Huehuetenango, and Quetzaltenango and in the Mexican border area where persons were most vulnerable to being trafficked.

The government also conducted sensitization workshops focusing on the theme of social risk, including street children and sexual and labor exploitation, to members of rural development councils in the country's interior. It also disseminated a manual for the detection of and attention to child and adolescent victims of commercial sexual exploitation, which was used as a reference in all government and NGO shelters that attended to trafficked victims.

1B. Guatemala's border controls with Mexico, Belize, Honduras, and El Salvador were inadequate. Guatemalan immigration and law enforcement agencies lacked the capacity to monitor immigration and emigration patterns for evidence of trafficking and to screen for potential trafficking victims along the borders.

1C. Guatemala has a mechanism for coordination and communication among various agencies on trafficking-related matters. The Inter-Agency Commission to Combat Trafficking was established by government decree in July 2007 under a renewable two-year mandate to oversee implementation of a national anti-TIP strategy. The Foreign Ministry, under the Director for Migration Affairs, took the lead in coordination

efforts. The commission depends heavily on international and NGO support.

¶D. In July 2008, the government approved a 10-year national plan of action to combat trafficking in persons and to protect victims. The Inter-Agency Commission to Combat Trafficking in Persons, under the leadership of the Foreign Ministry and in consultation with civil society, developed the Public Policy Against Trafficking in Persons and Comprehensive Protection to Victims and the National Plan of Strategic Action (2007 - 2017) to address TIP. The public policy aims to prevent and prosecute human trafficking and to protect victims through institutional strengthening, application of justice, and international cooperation. The national plan, as the core element of the public policy, provides the overall framework for the implementation of the policy, including the goals, strategic actions, indicators, timeframe, and roles of the responsible public entities. The national plan has been implemented by each of the government agencies involved in anti-trafficking efforts.

¶E. The government collaborated with civil society in a nationwide public awareness campaign to educate the public

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and to reduce the demand for commercial sex acts. In addition, it conducted raids on brothels and other commercial establishments to rescue sexually exploited minors and to deter commercial sexual exploitation, and ran a 24-hour call center to deter the demand for these acts.

¶F. The government participated in a public awareness campaign to reduce international child sex tourism. During the reporting period, according to the Public Ministry, there were no cases of Guatemalan nationals who had engaged in child sex tourism. In November 2008, ECPAT/Guatemala participated in discussions on the prevention of sex tourism at the 3rd World Congress Against Sexual Abuse and Exploitation of Children and Adolescents in Rio de Janeiro, Brazil. The conference, organized by ECPAT International, drew an estimated 3,500 participants from around the world.

¶G. As part of mandatory pre-deployment training, the Regional Peacekeeping Operations Training Center in Guatemala provided extensive training on human rights, including six 50-minute modules focused on human trafficking, to all Guatemalan troops deployed abroad on UN peacekeeping missions and other similar missions to ensure that they do not engage in or facilitate trafficking or exploit trafficked victims.

Nomination of TIP Hero

Casa Alianza/Guatemala, which closed January 16, 2009 for financial reasons, played a critical role in the prevention, care, and follow-up of trafficked victims and abandoned children in Guatemala for 28 years. It used a comprehensive care model that included working with minors living in the streets and high-risk areas to prevent them from becoming victims of trafficking. It rescued minor trafficked victims and provided long-term care, with formal as well as vocational training. Its comprehensive approach ensured not only a safe, protective environment for victims, but also provided victims with technical, income-generating skills, and legal support for development of cases for prosecution. Casa Alianza compiled and disseminated important information on trafficking, advocated for greater government response to the trafficking issue, and actively participated in proposing and developing legislation and policies to improve efforts to reduce human trafficking. Its multi-disciplinary efforts focused greater public attention to the problem of human trafficking, especially to the care of victims, and enabled victims to successfully reintegrate into their families and communities and rebuild their lives.
McFarland